

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 19, 1989

ALL-COUNTY INFORMATION NOTICE NO. I-86-89

TO: ALL COUNTY WELFARE DEPARTMENTS
ALL COUNTY PROBATION DEPARTMENTS
ALL COUNTY COUNSELS
ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
ALL SDSS ADOPTION DISTRICT OFFICES

SUBJECT: 1989 CHAPTERED LEGISLATION RELATED TO THE
CHILD WELFARE SERVICES AND ADOPTIONS PROGRAMS,
AND CHILD ABUSE PREVENTION PROJECTS

This letter summarizes issues related to the adoptions program, child welfare services, child abuse prevention projects, and other family services which were addressed in bills enacted into law during 1989 and which become effective January 1, 1990, unless otherwise noted.

This summary is for general informational purposes only. Additional All-County Letters (ACLs) or All-County Information Notices (ACINs) have been or will be issued for some of these bills to provide more detailed descriptions of specific programmatic issues and necessary implementation activities. For ease of identification, bills related to the adoptions program have been listed separately below.

ADOPTIONS PROGRAM

AB 2322 (Bates), Chapter 1142, Statutes of 1989

This bill requires that the adoption agency investigating an independent adoption meet with a birth parent from whom consent is required within ten working days after receiving certain information about the petitioners and birth parent when the petitioners have been studied and the birth parent advised and, if requested, counseled prior to the adoptive placement.

The Department is preparing emergency regulations, forms and procedures for the implementation of this bill.

SB 64 (Campbell), Chapter 85, Statutes of 1989

Effective September 1, 1989, this bill requires that most families adopting independently pay a fee of \$500 to the agency investigating the proposed adoption prior to the filing of a favorable court report. The revenues from these fees are to be used to enhance staffing in the Independent Adoption Program.

This legislation does not require new Departmental regulations.

SB 551 (Presley), Chapter 913, Statutes of 1989

Since SB 551 impacts adoptions and child welfare services, it is discussed under both programs in this letter.

In addition to making grammatical and technical clarifications, this bill makes the following adoptions-related changes: conforms criteria for the adoptability assessment of dependent children mandated by Welfare and Institutions Code (WIC) Section 361.5(g) to the assessments mandated by WIC Sections 366.21(c) and 366.22(b); deletes the requirement that the ten years and older minor's attitude toward placement and termination of parental rights be included in the assessment mandated by WIC Section 361.5(g) when reunification services have not been ordered by the court; changes the age criteria of the minor from four years to ten years and older making the age consistent throughout the sections requiring a statement from the minor regarding placement and adoption; and includes presumed and alleged fathers in the definition of fathers to be notified of the WIC Section 366.26 hearing.

There will be minor revisions to already existing sections of the Adoptions Program Regulations.

SB 625 (Royce), Chapter 1376, Statutes of 1989

This legislation amends WIC Section 16120.1 to require counties to directly reimburse adoptive parents of special needs children for the nonrecurring expenses incurred by the parents during the adoption process. The State shall provide full payment to the counties for these reimbursements. The maximum reimbursement amount for each claim submitted is \$400. Reimbursements must conform to the eligibility criteria and claiming procedures established by the Department. This legislation also amends WIC Section 16119 to require all adoption agencies to provide prospective adoptive families with written information on the availability of this reimbursement.

Emergency regulations will be filed by the Department to implement this legislation.

SB 1177 (Royce), Chapter 994, Statutes of 1989

This legislation amends Section 224n of the Civil Code to establish conditions under which a child's foster parent(s) must be given consideration along with all other prospective adoptive parents as the adoptive placement selection for the child. The conditions are: 1) the child has been in the care of the foster parent(s) for more than four months; 2) substantial emotional

ties have been established between the child and the foster parent(s); 3) removal would be seriously detrimental to the child's well-being; and 4) a written request to be considered as the adoptive placement for the child has been made.

The Department's Adoptions Program Regulations describing adoptive placement criteria will be amended to reflect the provisions of Civil Code Section 224n as amended by SB 1177.

CHILD WELFARE SERVICES PROGRAM
AND CHILD ABUSE PREVENTION PROJECTS

AB 355 (Woodruff), Chapter 137, Statutes of 1989

This legislation amends WIC Section 304 to provide that when a minor is declared a dependent, no other division of any superior court (rather than just that superior court) may hear proceedings regarding the minor's custody. WIC Section 362.4 is amended to provide that when the juvenile court terminates jurisdiction over a dependent minor, the court may in specific circumstances issue an order directed to either parent enjoining action or determining custody or visitation issues. It may do so when a custody order has been entered or when proceedings for the nullification or dissolution of the parents' marriage, proceedings for their legal separation, or paternity proceedings are pending in any superior court (rather than just that superior court).

This legislation does not require new Departmental regulations.

AB 717 (Hansen), Chapter 1169, Statutes of 1989

This legislation amends Penal Code Section 3063.5 by adding child abuse reports to the list of documents that a parolee or his or her attorney shall receive in parole revocation proceedings. Portions of the report relating to the child abuse reporter shall not be disclosed.

The bill also amends Penal Code Section 11167.5 to authorize the Board of Prison Terms to subpoena child abuse reports that are not unfounded and concern only the current incidents upon which the parole revocation proceedings are pending against a parolee charged with child abuse.

This legislation does not require new Departmental regulations.

AB 783 (N. Waters), Chapter 603, Statutes of 1989

This legislation reinstates the Child Abuse Prevention Coordinating Council Act which was repealed on June 30, 1989 due to a sunset clause. The Act provides for the establishment and

funding in each county of councils whose primary purpose is to coordinate community efforts to prevent and respond to child abuse. The reinstated Act does not contain a sunset clause.

This is an urgency measure with an effective date of September 21, 1989. This legislation does not require new Departmental regulations.

AB 1713 (Katz), Chapter 569, Statutes of 1989

This legislation adds language to WIC Section 202 indicating that when removal of a minor is determined to be necessary by the juvenile court, reunification of the minor with his or her family shall be a primary objective. In addition, family preservation and reunification are indicated as appropriate goals for the juvenile court to consider when determining the disposition of wards.

AB 1713 also repeals and adds WIC Section 656.2 and adds Section 706.5; these changes do not impact child welfare services.

This is an urgency measure with an effective date of September 21, 1989. AB 1713 does not require new Departmental regulations.

AB 1750 (Woodruff), Chapter 1262, Statutes of 1989

This legislation requires the Office of Criminal Justice Planning (OCJP) to review statutes and problem areas, and existing state, local and private sector services and procedures for providing services, in order to recommend state policy and to establish procedures for providing services to runaway and abandoned youth.

By June 30, 1991, the OCJP must submit to the Legislature recommendations containing suggestions on statutory revisions to benefit runaway youth and strengthen the family unit.

This legislation does not require new Departmental regulations.

AB 2167 (Burton), Chapter 407, Statutes of 1989

WIC Section 10851 establishes records retention requirements for public social services cases. AB 2167 adds language to this code section indicating that a child protective services agency may, but need not, retain a child abuse report which has been determined to be "unfounded" as defined in Penal Code Section 11165.12.

This legislation does not require new Departmental regulations.

AB 2212 (Speier), Chapter 1402, Statutes of 1989

This legislation adds Penal Code Section 288.5 to create a new crime known as continuous sexual abuse of a child. The offense occurs when a person who either resides in the same home with or has recurring access to a child, over a period not less than three months in duration, engages in three or more acts of substantial sexual conduct or three or more acts of lewd or lascivious conduct with a child under the age of 14 years at the time of the commission of the offense.

AB 2212 also amends other Penal Code sections to reference the new crime.

Manual of Policies and Procedures (MPP) Division 30 handbook material will be updated to reflect this law change.

AB 2268 (Bates), Chapter 1437, Statutes of 1989

This legislation allows dependent minors who have special health care needs to be placed in specialized foster care homes. The foster parents who care for these children are to be trained by health care professionals according to the discharge plans of the facilities which release the children.

Counties wishing to place children pursuant to AB 2268 must develop a placement plan and submit it to the State Department of Social Services (SDSS) and the State Department of Health Services (SDHS) by April 1, 1990. A county which has not submitted a plan by that date cannot continue to make placements of special health care needs children until the plan has been submitted.

This is an urgency measure with an effective date of October 2, 1989. Since AB 2268 and SB 1466 concern similar issues, an ACL is being prepared to provide additional information on both bills. Emergency regulations will be developed to implement the AB 2268 provisions.

ACR 30 (Speier), Resolution Chapter 70, Statutes of 1989

This resolution requires the California Law Revision Commission to conduct a review of all statutes relating to the adjudication of child and family civil proceedings (excluding proceedings initiated under WIC Section 602) and to make recommendations to the Legislature regarding the establishment of a Family Relations Code. The resolution does not indicate a specific completion date for the review.

This resolution does not require new Departmental regulations.

SB 182 (Torres), Chapter 408, Statutes of 1989

This legislation amends WIC Sections 272 and 306 to permit a social worker in a county welfare department to take a minor into custody, under specified circumstances, without a warrant and without the delegated authority of the board of supervisors.

An ACIN is being prepared to provide additional information regarding this bill. MPP Division 30 regulations will be amended to reflect the SB 182 provisions.

SB 218 (Petrus), Chapter 1220, Statutes of 1989

This legislation enacts the California Child Victim Witness Pilot and Demonstration Programs. It authorizes for three years the establishment of up to three each of investigative, judicial and child advocacy pilot and demonstration projects. The Office of the Attorney General will administer the investigative projects, while the Judicial Council will administer the judicial and the child advocacy projects. The purpose of the projects is to improve the treatment of child victim witnesses in legal proceedings.

The bill also appropriates \$26,500 to the Department of Justice and \$56,500 to the Judicial Council to cover their administrative costs. The bill provisions sunset on January 1, 1994.

This legislation does not require new Departmental regulations.

SB 219 (Petrus), Chapter 86, Statutes of 1989

This legislation amends WIC Sections 830 and 10850.1 to authorize multidisciplinary team members to exchange information and writings designated as confidential under state law if believed to be generally relevant to the prevention, identification or treatment of child abuse or the abuse of elder or dependent persons. AB 219 further provides that discussions relative to the disclosure or exchange of information or writings during team meetings are confidential; testimony concerning a discussion is not admissible in any criminal, civil or juvenile court proceeding.

This legislation does not require new Departmental regulations.

SB 220 (Petrus), Chapter 1441, Statutes of 1989

This legislation adds WIC Section 241.1 to require that when a minor appears to come within the description of both WIC Section 300 and Section 601 or 602, the county probation department and the county welfare department shall both make recommendations to the juvenile court. The court will then

determine the appropriate status for the child. It also requires the probation and the welfare departments jointly to develop a written protocol to ensure local coordination in the assessment of the minor and in the development of recommendations to the court.

An ACIN is being prepared to provide additional information regarding this bill. MPP Division 30 handbook material will be developed to reflect the SB 220 provisions.

SB 221 (Petriss), Chapter 1409, Statutes of 1989

This legislation amends Code of Civil Procedure Section 546 to authorize designated judges, commissioners or referees to issue ex parte emergency protective orders when a police or sheriff's officer believes that a child is in immediate danger of abuse by a family or household member. WIC Section 213.5 is added to authorize the juvenile court, during dependency proceedings, to issue ex parte orders enjoining a parent, guardian or other household member from engaging in specified behavior (such as striking the child) or excluding such person from the child's home.

An ACIN is being prepared to provide additional information regarding SB 221. This legislation does not require new Departmental regulations.

SB 273 (Lockyer), Chapter 322, Statutes of 1989

This legislation adds Evidence Code Section 1293 to provide an exception to the hearsay rule in court proceedings. It allows, under specific circumstances, evidence of former testimony which was made at a preliminary examination by a minor child (the complaining witness) against a parent or guardian in a proceeding to declare the child a dependent.

This legislation does not require new Departmental regulations.

SB 370 (Presley), Chapter 1294, Statutes of 1989

This legislation addresses a variety of significant issues related to Aid to Families with Dependent Children-Foster Care (AFDC-FC) funding, the placement of children in out-of-home care and the services provided to these children. Some of the major provisions are: the requirement for SDSS to develop performance standards and outcome measures for out-of-home placements; the establishment of a standardized schedule of rates for group homes; the requirement for SDSS to develop a level of care assessment instrument which matches the assessed needs of the dependent child and his or her family with the services provided by placement facilities; and the implementation of a single, statewide Child Welfare Services Case Management System.

SB 370 provides for the gradual implementation of its mandates over the next few years. An ACIN is being issued to provide additional information regarding this bill. As the Department moves ahead with the implementation of the various bill provisions, further information will be made available.

SB 551 (Presley), Chapter 913, Statutes of 1989

The adoptions-related provisions of SB 551 have already been discussed earlier in this letter. SB 551 also makes several changes which impact child welfare services. These changes include extending the sunset date of current WIC Section 300 from January 1, 1990 to January 1, 1992, and requiring the review of older children in long-term foster care to include a determination of services needed for transition to independent living.

Two ACINs are being prepared by the Family and Children's Services Branch to provide additional information regarding this bill: one will focus on the bill in general, while the other will specifically address the Independent Living Program changes. MPP Division 30 regulations and handbook material will be updated to reflect the SB 551 provisions.

SB 997 (Presley), Chapter 1303, Statutes of 1989

This legislation authorizes a county board of supervisors to establish an interagency children's services coordination council. Council duties would include identifying service gaps, developing policies and setting priorities, providing for countywide interagency case management and ensuring countywide planning for service delivery.

Any county which chooses to establish a council may request a waiver of existing state regulations pertaining to single agency operations and auditing and accounting requirements, if the regulations hinder the coordination of children's services. Waiver requests shall be submitted in writing to the Secretary of the Health and Welfare Agency, the Superintendent of Public Instruction and the Attorney General.

This legislation does not require new Departmental regulations.

SB 1173 (Royce), Chapter 1385, Statutes of 1989

This legislation authorizes the SDSS to establish a three-year, four-county demonstration project to encourage the placement in foster family homes of children who are alcohol- or drug-exposed or who test positive for human immunodeficiency virus (HIV). The bill provides for a total of five demonstration projects: one each in Alameda, Sacramento and San Diego County, and two in

Los Angeles County. The demonstration project counties are required to recruit and train foster parents to care for the target population. The SDSS must report by December 31, 1992 to the Legislature on the effectiveness of the project.

This is an urgency measure with an effective date of October 2, 1989. This legislation does not require new Departmental regulations.

SB 1466 (Seymour), Chapter 1175, Statutes of 1989

This legislation amends Health and Safety Code Section 1507.5 to allow (when deemed medically appropriate by the SDHS) in-home medical care and home and community-based services to be provided by a licensed home health agency to children with special medical needs in foster family homes. "Special medical needs" are to be defined by the SDHS. No more than two children eligible for services under SB 1466 may be placed in a single licensed foster family home at one time. This bill further requires the SDHS to report to the Legislature by July 1, 1990 regarding various federal waivers for HIV- and drug-exposed foster children.

Since SB 1466 and AB 2268 concern similar issues, an ACL is being prepared to provide additional information on both bills. This legislation does not require new Departmental regulations.

SB 1532 (C. Green), Chapter 1053, Statutes of 1989

This legislation adds Health and Safety Code Section 1522.2 to require a local law enforcement agency, social services agency or probation officer to notify the licensee if the agency or officer becomes aware that any employee of a community or day treatment facility, a group home or a foster family agency has been arrested for child abuse. The agency or officer must notify the licensee after determining that the potential for abuse is present and the employee is free to return to the facility where children are present.

SB 1532 also amends Penal Code Section 11174.1 to require the SDSS to develop regulations for the above-listed facilities to ensure that all licensees and employees have appropriate training and that the facilities have written protocols for child abuse investigation and reporting.

This is an urgency measure with an effective date of September 29, 1989. The Community Care Licensing Division will be drafting regulations to reflect the SB 1532 provisions.

Copies of the above-described chaptered bills may be obtained from the California Legislative Bill Room, State Capitol Building, Room B-32, Sacramento, California 95814.

If you have any questions regarding adoptions-related legislation, please contact Mr. Ritch Hemstreet, Chief, Adoptions Policy Bureau, at (916) 322-4228 or ATSS 492-4228. If you have questions regarding the issues addressed in these statutes as they relate to the delivery of child welfare services, please contact Ms. Ingrid Petty, Family and Children's Services Policy Bureau, at (916) 323-3411 or ATSS 473-3411. Questions regarding AB 783 should be addressed to Mr. Larry Grandstaff, Office of Child Abuse Prevention, at (916) 324-5985 or ATSS 454-5985. Please address questions regarding SB 1532 to Ms. Joan Regeleski, Community Care Licensing, at (916) 324-4318 or ATSS 454-4318.

Sincerely,



LOREN D. SUTER
Deputy Director
Adult and Family Services

cc: County Welfare Directors Association